

## 48A C.J.S. Judges § 63

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### III. Term and Tenure of Office; Vacancy

#### E. Termination of Term

##### 1. In General

## § 63. Forfeiture

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  7, 10

**A judicial officer may forfeit his or her office by failing to comply with conditions precedent to induction into office or by other acts specified by constitutional or statutory provisions providing for forfeiture.**

The office of judge may be subject to forfeiture.<sup>1</sup> A judicial officer may forfeit his or her office by failing to comply with conditions precedent to induction into office<sup>2</sup> or by other acts specified in the constitutional or statutory provisions providing for forfeiture.<sup>3</sup> Accordingly, pursuant to some provisions, a judicial officer may forfeit his or her office on conviction of a felony<sup>4</sup> or on becoming a candidate for an elective office.<sup>5</sup>

A provision for forfeiture on the ground of specified acts of misconduct does not, however, necessarily provide for automatic forfeiture without an adjudication of guilt,<sup>6</sup> but a state constitutional provision providing that a judge convicted of misbehavior in office forfeits automatically his or her judicial office is applicable to retired judges who are eligible to serve as senior judges.<sup>7</sup> The right to the office of judge forfeited on conviction of a felony is not revived by the granting of a pardon<sup>8</sup> or a reversal of the conviction on appeal.<sup>9</sup>

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

### Footnotes

<sup>1</sup> Wash.—*In re Simmons*, 65 Wash. 2d 88, 395 P.2d 1013 (1964).

2 Neb.—*State v. Lansing*, 46 Neb. 514, 64 N.W. 1104 (1895).

As to eligibility requirements and qualification of an individual for office of a judge, see §§ 34 to 49.

**Qualifications for office**

Kan.—*Sinclair v. Schroeder*, 225 Kan. 3, 586 P.2d 683 (1978).

**Membership in legal profession**

(1) An indefinite suspension from practice of law works a forfeiture of office of judge since the judges who are required by statute to be attorneys at law must necessarily maintain their status as members of the legal profession.

Ohio—*State ex rel. Saxbe v. Franko*, 168 Ohio St. 338, 7 Ohio Op. 2d 57, 154 N.E.2d 751 (1958).

(2) District judge who ceased to be a member in good standing of state bar for failure to pay dues did not forfeit right to hold or perform duties of office.

Tex.—*Ex parte Lefors*, 171 Tex. Crim. 229, 347 S.W.2d 254 (1961).

3 **Absence from state**

Cal.—*People ex rel. Benwell v. Foutz*, 27 Cal. 2d 1, 162 P.2d 1 (1945).

4 Wash.—*In re Simmons*, 65 Wash. 2d 88, 395 P.2d 1013 (1964).

5 **Filing of formal nomination papers not required**

Haw.—*Application of Pioneer Mill Co.*, 53 Haw. 496, 53 Haw. 573, 497 P.2d 549 (1972).

6 Okla.—*Johnson v. Johnson*, 1967 OK 16, 424 P.2d 414 (Okla. 1967).

7 Pa.—*In re Cain*, 527 Pa. 260, 590 A.2d 291 (1991).

8 Ark.—*State v. Carson*, 27 Ark. 469, 1872 WL 1044 (1872).

9 Wash.—*In re Simmons*, 65 Wash. 2d 88, 395 P.2d 1013 (1964).

---

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.